



H.R. 2640 – To improve the National Instant Criminal Background Check System, and for other purposes

Floor Situation

H.R. 2640 is being considered on the floor under suspension of the rules and will require a two-thirds majority vote for passage. This legislation was introduced by Representative Carolyn McCarthy (D-NY) on June 11, 2007. The bill was referred to the Committee on the Judiciary, but never considered.

H.R. 2640 is expected to be considered on June 13, 2007.

Background

The National Instant Criminal Background Check System, or NICS, is a federal database for conducting background checks on firearm purchases. There are a number of factors that would prohibit individuals from owning firearms under current law, including:

- has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;
- is a fugitive from justice;
- is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act ([21 U.S.C. 802](#)));
- has been adjudicated as a mental defective or who has been committed to a mental institution;
- is illegally or unlawfully in the United States; or except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act ([8 U.S.C. 1101 \(a\)\(26\)](#)));
- has been dishonorably discharged from the Armed Forces;
- having been a citizen of the United States, has renounced his citizenship;
- is subject to a court order restraint related to harassing, stalking, or threatening an intimate partner or child of an intimate partner; or

- has been convicted of misdemeanor domestic violence.

Summary

H.R 2640:

- Requires federal departments and agencies to disclose relevant records for use by the National Instant Criminal Background Check System (NICS).
- Provide incentives to states (a waiver of the 10% match required for National Criminal History Improvement grants) that provide records to NICS.
- Provides a penalty for states that refuse to do so – The Attorney General may withhold 3% of the funds from the Omnibus Crime Control and Safe Streets Act of 1968 if the state provides less than 60% of the info required.
- Requires that the Attorney General remove expired and erroneous information from the database.
- Prevents the use of purely medical records in NICS. Instead, medical criteria that are used in the system must be based on a specific finding that a person is a danger to himself or to others or that the person lacks the mental capacity to manage his own affairs.
- Provides a process for individuals to have medical adjudications or determinations by federal agencies expunged or removed.
- Prohibits federal fees for NICS, which up to this point have only been prohibited by annual appropriations riders.
- The bill authorizes \$250 million in grants for each fiscal year between 2008 and 2010 for states (5% reserved for Indian tribes) to establish or upgrade information and identification technologies for firearms eligibility determinations.
- The Attorney General must report to Congress annually on the progress states have made in automating the databases.
- Requires a GAO audit of all the funds already spent for criminal records improvement.

Cost

There is currently no CBO estimate available for this bill.

Staff Contact:

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